

**DELTA PROTECTION COMMISSION**  
**Thursday, June 24, 1993**

**-----Draft Minutes-----**

**I. CALL TO ORDER**

Chairman Torlakson called the meeting to order at 6:30 p.m. in the Port of Sacramento Hearing Room in West Sacramento. Two new members Steve Sekelsky, representing State Lands Commission and Don Murphy, Director of the Department of Parks and Recreation were introduced. Newly appointed Executive Director Margit Aramburu was also introduced and welcomed.

Present were Commissioners Torlakson, Barber, Johnson, McGowen, Thompson, Mello, Bland, McCarty, Calone, Ferreira, Potter, Curry, Yates, Sekelsky, and Murphy. Commissioners Keller, Salmon, and Fargo arrived late. Not present was Commissioner Broddrick. Staff present: Rick Frank, Deputy Attorney General; and Caroline Haigh, Special Assistant to the Secretary for Resources.

**II. PLEDGE OF ALLEGIANCE**

**III. APPROVAL OF MAY MINUTES**

Commissioner Johnson moved to approve the May minutes, which was passed with abstentions from Commissioners Barber and Sekelsky.

**IV. CHAIRMAN'S REPORT**

Commissioner Torlakson announced that prior to the next meeting in July in Oak Grove an open house would be held. He also expressed his desire to expand the Commission's mailing list only to people who want it. Finally, the Chairman proposed to move Delta tour until September or October due to budget, heat, and short time frame. The August meeting will be held on Thursday, August 26 at 6:30 p.m. in Antioch.

**A. Consideration and Possible Creation of Subcommittee on Finance**

Chairman Torlakson describes the need for committees to help guide the Commission forward. A Finance Subcommittee would be formed to shape the budget and make recommendations on long-term financing. Chairman asks Commissioners for one volunteer to Chair the Subcommittee and for two other Commissioners to serve on subcommittee:

FINANCE SUBCOMMITTEE: Pat McCarty - chair  
Sekelsky - member  
Calone - member  
Salmon - member  
Torlakson - member

**B. Consideration and Possible Creation of Subcommittee on Administration and Operation**

Chairman Torlakson seeks volunteers for a second subcommittee to handle protocol and administrative matters, and coordinate operations for the Commission.

ADMINISTRATION AND OPERATION: Mike McGowen - chair  
Fargo - member  
Yates - member  
Ferreira - member

Commissioner Potter moved to adopt both newly formed Subcommittees, which was then passed unanimously.

Ms. Aramburu added the Subcommittee meetings are public meetings and will likely be held prior or following other meetings and that the Subcommittees will not take actions; only make recommendations to the full Commission.

\*Chairman Torlakson asked for nominations to the citizen advisory committees on Agriculture, Environment, and Recreation.

#### **V. EXECUTIVE DIRECTOR'S REPORT**

Margit Aramburu updated the Commission on the following administrative issues:

- \*Close to closing a deal on office space in Walnut Grove. There was a lot of agreement about the need for finding a suitable space for the Commission's office, considering the number of documents that will be accumulated and the difficulty to move them around.

- \*Working with the Department of Conservation to hire clerical staff. Staff at the Resources Agency and the Department of Conservation continue to help with logistics.

- \*Legislation does allow Commissioners to collect expenses incurred from meetings and the Commission's staff will assist in processing such forms.

- \*Delta field trip for August to be rescheduled and Margit will be seeking input as to how to organize the trip-areas of interest. Commissioner Hardy suggested that if the tour is postponed until October, to make sure not to schedule it too late in the month because there is a greater chance for poor weather. Potter suggests October 2, 1993 be the date for trip.

Commissioner McGowen asked Aramburu about future meeting times and sites. With the rescheduling of the field trip the August meeting was set for 6:30 p.m., Thursday, August 6th in Antioch;

Commissioner Solomon expressed his disappointment with the June meeting site and suggested the Commission staff find better meeting sites. Aramburu has placed this issue is at the top of her list of priorities. McGowen apologized for the inadequate room. Fargo believed the first place the Commission met, the Jean Harvie Center in Walnut Grove, has been the best meeting site thus far.

Commissioner Ferreira commented on the need to update the roster. Ms. Aramburu said an updated roster will be mailed in the next packet.

Commissioner Murphy asked where the Commission's interim office was located - Ross Sargent's office or Rick Frank's office. Ms. Aramburu said mail could be sent to either address.

#### **VI. ATTORNEY GENERAL'S REPORT**

Rick Frank reported that Aramburu has been sworn in as the Executive Director of the Commission. In addition, the two new Commissioners were sworn in prior to the June meeting.

Mr. Frank also reported:

- \*As required by the Office of Administration, the proposed conflict of interest code will be adopted at the August meeting. The text Mr. Frank sent the Commissioners is only a draft and open to comments and suggestions.

- \*A second set of regulations that need to be considered are the administrative regulations by which you would decide administrative appeals. Mr. Frank will be working on them so that they can be considered at the August meeting.

- \*The roster of Commissioners with addresses and phone numbers will be updated and copies will be sent to each of the Commissioners before the next meeting. He would address this matter in more detail later.

Commissioner Potter asked about the conflict of interest code. Mr. Frank reported that the Commissioners will only have to file one report

Commissioner McCarty asked Mr. Frank's legal opinion regarding the review authority and the appeals process of the Commission in the secondary zone. Mr. Frank informed the Commission that their jurisdiction is very limited in the secondary zone as compared to the primary zone. Mr. Frank said he would research the matter further.

## VII. INFORMAL BRIEFING: AGRICULTURE

The Executive Director explained that the briefing focused on the history of agriculture in the Delta because of the importance of understanding the basic issues and values. She introduced each of the five speakers prior to their presentations.

**A. Alex Hildebrand** - An overview of the history of agriculture in the Delta and how this industry relates to the Commission.

### History

The legal boundaries of the Delta are based on the extent of tidal actions. Consequently, the central western Delta has lands below sea level, much of which is land composed of peat soil. While in the southern region with the land at or above mean tidal levels, the land is rich with mineral soil.

The crops in peat soil are different than those in mineral soil. In the central Delta the main crop used to be potatoes. Retaining enormous amounts of water, the crops in peat soil do not have to be irrigated as much and as late in season. Also the potatoes tolerate certain amounts of salinity. Cotton can also handle high salinity, and though presently no cotton is growing in the southern Delta, Mr. Hildebrand thinks it might be a good idea. Most crops grown require high quality water--the most salt sensitive crops are onions and berries.

As less water is transferred to the Valley and population continues to grow, the number of crops grown in central Delta decreased considerably. However, population pressures will one day reach the point where the Delta region will need to feed 50% more people than it does now, leading to more diverse crops. According to Mr. Hildebrand the fact that the Delta was originally a mosquito infested marsh, encouraged people to turn it into agricultural land. Arguments for flooding the Delta, returning it to its original state, do not understand the kind of constraints on water that would produce. Hildebrand claims that water is not saved by flooding the land; agriculture uses less water.

### Relating Agriculture, the Delta, and the Commission

1. The Commission is concerned primarily with land use, similar to BDOC which is concerned primarily with water use. Hildebrand contends that the interrelation between the two must be considered. Lands important to both agriculture and waterfowl need to be prioritized; agriculture below sea level is important to waterfowl. To encourage multiuse of Delta lands, the Commission needs to look into the problem of expensive and hard to attain permits.

2. There is an important common interest in the maintenance of levees. The Commissioner needs to address the question of how to streamline the maintenance of levees--there are too many permits and agencies involved. This causes delay and high cost, resulting in levees not being maintained. Thus, as businesses that maintain levees go under, the Delta is losing its infrastructure.

3. Single purpose regulation is a major problem (ie. endangered species). Some of the laws don't consider the tremendous population pressures and exotic species present in the Delta; more than half of the species in the Delta are not native, forcing native species to compete. There is also the problem of the diversion of water, loss of spawning areas, flood control projects, and the question of introduced species.

4. There is a problem with recreation in Delta. The Delta is experiencing trash, erosion, people on levees, and vehicle problems. Consequently, more recreation opportunities are needed but provided in areas that can be policed and supervised

5. Dealing with these issues, the Commission and BDOC should not be trying to pass laws, but solving problems. The two bodies need to emphasize the natural and water supply differences within the various regions of the Delta.

**B. Eric Vinson, Soil Conservation Service since 1974, assigned in Yolo County**

Introduced and presented a couple copies of the Soil Conservation Service's latest survey, covering a lot of Delta soils. Also brought one for Contra Costa County. The survey for Sacramento County is at the printers and will be delivered.

Soils of the Delta

Deltas are depositional features which occur at the mouth of rivers. Rivers carry sediment and deposit it forming a delta. California's Delta started developing 1.8-2 million years ago when water filled the San Joaquin Valley. As the sea level rose, the rivers deposited sediment and water-loving plants started growing in the peat soil. The earliest organic soil carbonated 11,000 yrs ago. In the 1870's Californians started to dike the Delta with Chinese laborers. Later the steam driven clam shell dredge created drastic changes. By 1920, the entire Delta was involved in agriculture. In 1922, people began to realize their changes to the Delta caused considerable lowering of the its islands; the Central Delta subsided 10-21 feet by 1980.

The Causes of Subsidence in the Delta:

- 1.Oxidation: Water-loving plants grow in the soil, and when the soil is drained oxygen is introduced. Aerobic microbes eat the organic matter producing energy--such as in the Florida Everglades which attribute 50% of subsidence due to oxidation. The same is true with the Delta, resulting in the need for water level control to reduce oxidation.
- 2.Shrinkage
- 3.Wind Erosion: To avoid this problem in springtime, it is important to keep vegetative matter or water cover on the soil.
- 4.Anaerobic Decomposition: Caused by fluctuations of water level.
- 5.Burn the land: Burning results in loss of soil, and much of the Delta has been burned.

**C. Topper Van Loben Sels - North Delta Conservancy**

Through a slide show presentation Mr. Van Loben Sels discussed the following:

\*The evolution of harvesting in the Delta, from being done by hand to machines. He showed the different machines that used to deliver water to crops.

\*Crops grown in the Delta: alfalfa, sugar beets, pear orchards--which he pointed out are friendlier to wildlife because they are hand picked and use a lot of herbicides--tomatoes, and corn.

\*Herbicides and equipment minimize labor force

\*On his farm, of 2700 acres, 88 acres of wetlands are maintained for the many broods of mallards. Also he has saved natural trees on the perimeter of his land, such as black walnuts.

\*Diverse cover crops increases habitat and reduces need to fertilize.

\*Changing water levels impacts fields.

\*Showed how "clean farming" does not do anything beneficial to the land; these farms lack any vegetation other than the crop. There is a need to educate these people as how to make their crops hospitable to species and the natural environment, a major focus of the North Delta Conservancy.

**\*North Delta Conservancy (NDC)-**

Its mission: protect wildlife, Delta agriculture, urban people, and enhance recreation. The group advocates the need to protect heritage, culture, recreation, wildlife habitat, agriculture, and economy. Four competing uses: protect heritage/culture of small river towns, protect habitat, keep local economy alive, balance with agriculture with all of these. Agriculture cannot be held against these others.

The Conservancy sees that there are two major problems in the Delta: the need to stop government acquisition and to stop urban encroachment. Many residents of the Delta fear government and urban penetration into productive farmland. NDC advocates protecting agriculture for agriculture's sake. As a result, the Commission needs to carefully monitor transfer of development rights. Mr. Van Loben Sels asked for the Commission's support for the NDC.

**D. Robert McLandress, Ca. Waterfowl Association**

The future of wildlife habitat in California is dependant on private landowners. The California Waterfowl Association (CWA) is supported by duck hunters.

Fall flight forecasts are decreasing each year--now 70 million ducks. One bird, the pintail which tends to fly to California, showed precipitous loss. Anything that influences the pintail has tremendous impact on rest of waterfowl in California. Agriculture has been devastating to waterfowl and so has the drought. California has lost a total of 480,000 acres of wetlands, only 40,000 of which are coastal wetlands. These numbers mean that California marshlands acreage is at 10% of its original amount. Loss of wetlands are due to the following problems: drainage, pollution, human habitation. McLandress summed it up by saying that there are too many people.

How are wild lands preserved? CWA's major efforts are in Waterfowl and Wetlands Programs. Waterfowl restorations include California Mallards, California Wood Duck Program, Canada Goose Reintroduction, and the Pintail Program. Rice fields also offer some of the best brooders in California. The Wetland Habitat Enhancement program -includes outreach through advisory services and demonstration lands. One component of the program is multiple land use, with one of the best examples being in the Delta known as Mandeville Island:

- \*Successful breeding of mallards, with winter wheat ideal nesting area.
- \*Many species benefit from duck wood boxes, tremendous secondary habitat.
- \*Canada geese are now present, with a population exceeding 200.
- \*Corn is intermixed with smartweed.
- \*60 species of birds nesting on island.

**E. Ken Trott - Department of Conservation**

Mr. Trott discussed the purposes of the Williamson Act: Agricultural Land Preservation, Efficient Urban Growth Patterns, and Open Space.

Passed in 1965, the a central attribute of the Act is that it is voluntary. It is implemented through a contract in which counties or cities wishing to participate adopt rules or regulations and they adopt agricultural preserves. Under contracts, land is to be maintained as agriculture, and in return they receive a tax break, from 20-80%.

To enter into the Act a landowner needs to designate a preserve, at least 10 acres of prime and 40 acres of nonprime agriculture land in size, and to restrict land use for 10-20 years.

If a landowner wants to leave the Act, the owner must sign a contract of non-renewal because otherwise the contract is automatically renewed each year. For a contract cancellation that the landowner initiated, the landowner must pay 12.5% penalty fee on open market.

Mr. Trott presented the Commission with the following statistics on the Act:

- \*28 counties participate, covering 16 million acres in the state.
- \*2 million acres are under contract in the Delta.
- \*the Act accounts for half of the state's open space lands.
- \*the bulk of land is in the most valuable agricultural counties in California.

The Act took off in 1971 and leveled off in 1981, but last couple of years nonrenewals exceed the additions. In all 6 counties, Alameda was included, of the Delta-80% under Act 384,000/480,000 acres, with 320,00 of those acres being prime agriculture land. Mr. Trott believes the Williamson Act should be viable throughout the State.

#### **VIII. COMMISSIONER COMMENTS**

Commissioner Potter: clarified the ownership of an island;

Commissioner Thompson asked if the Williamson Act was viable? Mr. Trott affirmed that the Act is viable. However land under the Act is decreasing because some owners are receiving marginal tax savings. On the other hand there are plenty of lands receiving considerable tax breaks; grazing land owners receive the most benefit from the Act because they own such extensive amounts of land and their profit margin is so small. There are also owners who place their land under the Act strictly for conservation purposes.

Commissioner McCarty commented that the income on an acre of farmland is based on risk relative to the potential income and that the Williamson Act does not take into account the risk factor.

Commissioner Thompson made the comment that he believes the Act is still a benefit.

Commissioner Fargo asked if the counties are going to look for future revenue potential in the Williamson Act? Mr. Trott believed that to be the case and described how Governor Wilson has supported it through money set aside for Williamson program in the budget. But there are a lot of pressures to circumvent the Act as a result of funding conditions in the counties.

Commissioner Murphy inquired about the Commission's Report due in December of 1993, wondering whether there had been any discussion on how to speed up the process to make the December deadline and if there was anything the Commissioners could do? Ms. Aramburu asserted all that can be done is being done. She also remarked on the Commission's financial situation and how the Commission needs other source for funding after first year's license plate money runs out, considering that no money is available from the General Fund.

#### **IX. PUBLIC COMMENTS**

Bill Sheldon who has lived in the Delta since 1927, talked about it used to be; he asked what the Commission going to do to raise the tax base.

A Sergeant from Contra Costa-marine patrol responded to the concern over marine patrols being down graded or totally eliminated by the new budget. The Sergeant maintained that his patrol will continue to function through the current year.

Dr. Frank Ernst requested oaths of office from all the Commissioners and did not get copies from all of them. As a result, he feels the elected are not responsive to their electors. Mr. Ernst then asked if he could expect Parliamentary procedure most of the time? Finally Mr. Ernst expressed his concern over the Delta Protection Act's multitude of irregularities. Responding to Mr. Ernst's request, Commissioner Keller promised to send his oath of office.

Chairman Torlakson thanked the presenters and summarized that:

- \*the word "balance" came out a lot of the presentations;
- \*different interests that need to be protected and preserved; and
- \*Agriculture can co-exist with conservation and wildlife

Rick Frank, responding to the earlier question: Does appellate jurisdiction extend to secondary zone? No

Commissioner Potter asked if the Advisory Committee are public meetings; Mr. Frank said the Advisory Committee meetings are not subject to the rules of the Brown Act.

**X.ADJOURNMENT**

There being no further old or new business, the meeting was adjourned a little after 10 p.m.

